

## **REMARKS**

### **I. Status of Claims**

Claims 1-9, 20 and 23-35 are pending in the application. Claims 1 and 2 are independent. Claims 10-19, 21, 22 and 36-43 have been withdrawn by a previous election and are canceled by this Response. Claims 1 and 2 are currently amended for clerical errors. No new matter is introduced by the amendments.

Claims 1-4, 20, 25-27 and 35 stand rejected under 35 USC § 103(a) as allegedly being unpatentable over Ono et al. (USP 6,438,948) (hereinafter “Ono”) in view of Saito et al. (USP 6,735,941) (hereinafter “Saito”).

Claims 23, 24, 33 and 34 stand rejected under 35 USC § 103(a) as allegedly being unpatentable over Ono in view of Saito as applied to claims 1 and 2 and in further view of Deeba (US 6,912,847) (hereinafter “Deeba”).

The Applicant respectfully requests reconsideration of these rejections in view of the foregoing amendments and the following remarks.

### **II. Allowable Subject Matter**

Claims 5-9, and 28-32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### **III. Applicant’s Statement of Substance of Examiner Interview**

In compliance with M.P.E.P. 713.04, the Applicant provides this Statement of Substance of Interview concerning the interview conducted on September 10, 2009 with Examiner Nguyen, and the Applicant’s representative Xiaomin Huang.

- (A) Exhibits. N/A.
- (B) Claim(s). 1-2.
- (C) References Discussed. Ono and Saito.

(D) Amendments. N/A

(E) Principal arguments of Applicant. The Applicant argued that Ono does not disclose or suggest “a replacement control section for replacing the estimated accumulation amount with a greater estimated accumulation amount when the estimated accumulation amount falls within a replacement determination reference range due to the heating and the at least one difference is greater than a replacement reference value” as recited in claim 1 and similarly recited in claim 2.

(F) Other matters. None.

(G) Results. The Examiner indicated that the Applicant’s arguments were persuasive.

#### **IV. Pending Claims**

Claims 1-4, 20, 25-27 and 35 stand rejected under 35 USC § 103(a) as allegedly being unpatentable over Ono in view of Saito.

Claims 1 and 2 recite, *inter alia*, “a replacement control section for replacing the estimated accumulation amount with a greater estimated accumulation amount when the estimated accumulation amount falls within a replacement determination reference range due to the heating and the at least one difference is greater than a replacement reference value.” The Applicant respectfully submits that neither Ono nor Saito disclose or suggest at least these features.

The Office Action argues that Ono discloses a device for purifying exhaust gas with features that correspond to the claimed replacement control section, citing claim 11 of Ono. However, the Applicant respectfully disagrees.

Ono discloses that in order to estimate the amount of particulate, an estimation means compares an amount of fresh air detected by said fresh air detection means with a reference value, a regeneration treatment for said particulate trap is executed when said amount of particulate estimated by said estimation means is larger than a preset amount, a fresh air reference value is corrected on the basis of said amount of fresh air detected by said fresh air detection means immediately after the completion of said regeneration treatment, and said reference value is updated only when said reference value is corrected to increase. (Claim 11; col. 18, l. 39 – col. 19, l. 31). Thus, the Applicant respectfully submits that Ono actually teaches

correcting a fresh air reference value on the basis of the amount of fresh air detected by the fresh air detection means when the amount of particulate estimated by said estimation means is larger than a preset amount. It is respectfully submitted that Ono, however, does not disclose replacing the estimated accumulation amount with a greater estimated accumulation amount when the estimated accumulation amount falls within a replacement determination reference range due to the heating and the at least one difference is greater than a replacement reference value. Accordingly, the Applicant respectfully disagrees with the assertion that Ono discloses a regeneration unit with all of the features recited in claims 1 and 2 as alleged in the Office Action.

Further, the Applicant respectfully submits that neither Saito nor Deebe address the deficiencies of Ono. As discussed in *KSR Int'l Co. v. Teleflex, et al.*, No. 04-1350, (U.S. Apr. 30, 2007), it remains necessary to identify the reason why a person of ordinary skill in the art would have been prompted to combine alleged prior art elements in the manner as claimed by the Applicant. Obviousness cannot be sustained on mere conclusory statements.

Therefore, for at least these reasons, it is respectfully submitted that claims 1 and 2, and claims depending therefrom, are patentable over the cited references.

V. **Conclusion**

For the above reasons, the Applicant respectfully submits that this application is in condition for allowance. Prompt consideration and allowance are solicited. The Examiner is encouraged to contact the undersigned with any questions.

**The Office is authorized to charge any additional fees under 37 C.F.R. § 1.16, § 1.17, or § 1.136, or credit of any overpayment, to Kenyon & Kenyon Deposit Account No. 11-0600.**

Respectfully submitted,

Dated: October 5, 2009

By: /Daniel G. Shanley/  
Daniel G. Shanley  
(Reg. No. 54,863)

KENYON & KENYON LLP  
1500 K Street, N.W. - Suite 700  
Washington, D.C. 20005 -1257  
Tel: (202) 220-4200  
Fax: (202) 220-4201  
Customer No. 23838